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4 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 MICHAEL LADUE, ET AL,

7 Plaintiff,

8 v.

9 KETTLE FALLS INTERNATIONAL
RAILWAY LLC, ET AL,

10 Defendants.

Case No. 2:20-cv-01472-TLF

ORDER REGARDING INITIAL
DISCLOSURES, JOINT STATUS
REPORT, AND EARLY
SETTLEMENT

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12 **I. INITIAL SCHEDULING DATES**

13 The Court sets the following dates for initial disclosure and submission of the
14 Joint Status Report and Discovery Plan:

15 Deadline for FRCP 26(f) Conference: Friday, January 8, 2021

16 Initial Disclosures Pursuant to FRCP 26(a)(1): Friday, January 15, 2021

17 Combined Joint Status Report and Discovery
Plan as Required by FRCP 26(f)

18 and Local Civil Rule 26(f): Friday, January 22, 2021

19 The deadlines above may be extended only by the Court. Any request for an
20 extension should be made by e-mail to Traci Whiteley, Courtroom Deputy, at
21 traci.whiteley@wawd.uscourts.gov. If Defendants have appeared, the parties are
22 directed to meet and confer before contacting the Court to request an extension.
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1 If this case involves claims which are exempt from the requirements of FRCP
2 26(a) and 26(f), please notify Traci Whiteley, Courtroom Deputy, by email at
3 traci_whiteley@wawd.uscourts.gov.

4 **II. ASSIGNMENT TO MAGISTRATE JUDGE**

5 This case has been initially assigned to Magistrate Judge Theresa L. Fricke. This
6 assignment will become final only if all parties consent to the jurisdiction of the
7 Magistrate Judge.

8 This District has adopted an “opt out” procedure for assignment of civil cases to a
9 Magistrate Judge. See Amended General Order 02-19 dated April 5, 2019, available on
10 the Court’s website, <https://www.wawd.uscourts.gov/general-orders-current>.

11 Before all parties have entered a notice of appearance or have otherwise
12 appeared, any party may notify Traci Whiteley, Courtroom Deputy, by email at
13 traci_whiteley@wawd.uscourts.gov, to opt out of the assignment to the Magistrate
14 Judge.

15 After all parties have entered a notice of appearance or have otherwise
16 appeared, the Court will send a “Declination of Consent” notice to each party. In
17 accordance with the Amended General Order 02-19, each party will have seven days
18 from the date of the “Declination of Consent” notice to decide whether to opt out. If they
19 do not opt out, then upon expiration of the 7-day period they will be deemed to have
20 consented to the jurisdiction of the Magistrate Judge.

21 If any party opts out of the assignment to the Magistrate Judge, then pursuant to
22 Amended General Order 02-19, the case will be assigned to a District Court Judge. If a
23 party decides to opt out, the Magistrate Judge will not have access to any information
24 that would identify any party or parties that opted out. Regardless whether any party
25

1 opts out, all parties will be required to meet the deadlines stated above, and follow the
2 procedures described below.

3 **III. JOINT STATUS REPORT & DISCOVERY PLAN**

4 All counsel and any pro se parties are directed to confer and provide the Court
5 with a combined Joint Status Report and Discovery Plan (the "Report") by Friday,
6 January 22, 2021. This conference shall be by direct and personal communication,
7 preferably a face-to-face meeting, but may be by a telephonic conference. The Report
8 will be used to set a schedule for the prompt completion of the case.

9 The Report must contain the following information by corresponding paragraph
10 numbers:

11 1. A statement of the nature and complexity of the case.
12 2. A proposed deadline for joining additional parties.
13 3. A discovery plan that states, by corresponding paragraph letters (A, B,
14 etc.), the parties' views and proposals on all items set forth in Fed. R. Civ. P. 26(f)(3),
15 which includes the following topics:

- 16 (A) initial disclosures;
- 17 (B) subjects, timing, and potential phasing of discovery;
- 18 (C) electronically stored information;
- 19 (D) privilege issues;
- 20 (E) proposed limitations on discovery; and
- 21 (F) the need for any discovery related orders.

22 4. The parties' views, proposals, and agreements, by corresponding
23 paragraph letters (A, B, etc.), on all items set forth in Local Civil Rule 26(f)(1), which
24 includes the following topics:

- (A) prompt case resolution;
- (B) alternative dispute resolution;
- (C) related cases;
- (D) discovery management;
- (E) anticipated discovery sought;
- (F) phasing motions;
- (G) preservation of discoverable information;
- (H) privilege issues;
- (I) Model Protocol for Discovery of ESI; and
- (J) alternatives to Model Protocol.

5. The date by which discovery can be completed.

6. Whether the case should be bifurcated by trying the liability issues before the damages issues, or bifurcated in any other way.

7. Whether the pretrial statements and pretrial order called for by Local Civil Rules 16(e), (h), (i), and (k), and 16.1 should be dispensed with in whole or in part for the sake of economy.

8. Whether the parties intend to utilize the Individualized Trial Program set forth in Local Civil Rule 39.2 or any ADR options set forth in Local Civil Rule 39.1.

9. Any other suggestions for shortening or simplifying the case.

10. The date the case will be ready for trial. The Court expects that most civil cases will be ready for trial within a year after filing the Joint Status Report and Discovery Plan.

12. Whether the trial will be jury or non-jury.

1 ten (10) days after each appearance. Plaintiff's counsel (or plaintiff, if pro se) will be
2 responsible for starting the communications needed to comply with this Order.

3 **V. JUDGE SPECIFIC PROCEDURAL INFORMATION**

4 All counsel and unrepresented parties should review Judge Fricke's web page for
5 procedural information applicable to cases before Judge Fricke. The Judges' web
6 pages, in addition to the Local Rules, Electronic Filing Procedures for Civil and Criminal
7 Cases, court forms, instruction sheets, and General Orders, can be found on the Court's
8 website at wawd.uscourts.gov.

9 **VI. EARLY SETTLEMENT CONSIDERATION AND NOTIFICATION**

10 If settlement is achieved, counsel shall immediately notify Traci Whiteley,
11 Courtroom Deputy, at traci_whiteley@wawd.uscourts.gov.

12 Each of the parties is responsible for complying with the terms of this Order. The
13 Court may impose sanctions on any party that fails to full comply with this Order.

14 Dated this 23rd day of October, 2020.

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17 Theresa L. Fricke
18 United States Magistrate Judge